

**Before  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

---

In the Matter of

Corr Wireless Communications, LLC

Petition for Designation as an  
Eligible Telecommunications Carrier

---

)  
)  
)  
)  
)  
)  
)

CC Docket No. 96-45

**REPLY COMMENTS OF CORR WIRELESS COMMUNICATIONS, LLC**

Tom Buchanan, General Counsel  
Corr Wireless Communications, LLC  
600 3<sup>rd</sup> Avenue East  
Oreonta, Alabama 35121  
Phone: (205) 237-3000

Dated: June 4, 2004

**TABLE OF CONTENTS**

**I. THERE ARE NO OUTSTANDING ETC DESIGNATION ISSUES THAT WARRANT FURTHER DELAY OF THE INSTANT PETITION ..... 2**

**II. THE RURAL LECS APPLY THE INCORRECT STANDARD FOR DETERMINING THE OVERALL IMPACT ON THE UNIVERSAL SERVICE FUND ..... 3**

**III. CORR WIRELESS MEETS THE PUBLIC INTEREST STANDARD IN VIRGINIA CELLULAR ..... 5**

**IV. THE CORR WIRELESS PETITION DOES ENCOMPASS ALL AFFECTED ALABAMA WIRE CENTERS ..... 7**

**V. CONCLUSION..... 9**

**EXHIBIT A WIRE CENTER INFORMATION ..... A-1**

## **SUMMARY**

In response to the Comments of the Alabama Rural Local Exchange Carriers, Corr Wireless, LLC (“Corr Wireless”) submits these Reply Comments relating to Corr Wireless’s Petition in which it requests designation as an ETC for the rural portions of its licensed service territory in Alabama.

The comments by the Rural LECs attempt to delay the Petition at issue by encouraging the Commission to wait for the resolution of the Joint Board Recommended Decision on suggested procedures for state PUCs to adopt in their ETC designation proceedings. This tactic is purely dilatory. The Recommended Decision is not relevant to analyzing the instant Petition under the *Virginia Cellular* standard established by this Commission. The Commission should reject their suggestion and grant Corr Wireless’ petition.

The Rural LECs also seek to impose a novel standard of review in which all Petitions are reviewed, statewide, in concert with each another. In so doing, the Rural LECs point to several areas in the state of Alabama that have multiple ETC applications granted or pending. None of the cited areas, however, is identified by Corr Wireless in its Petition.

After arguing that the Commission should ignore its own precedent and apply a new set of criteria, the Rural LECs argue that Corr Wireless does not meet the public interest standard in *Virginia Cellular*. However, the Supplement provided by Corr Wireless details numerous specific benefits to the affected service regions and satisfies the applicable public interest standard.

In response to the Rural LECs, Corr Wireless clarifies that it serves all Alabama wire centers in the affected area, by correcting an inadvertent omission of two wire centers in

Alabama from its Supplement. Finally, Corr Wireless also amends its Petition to remove the service area of Ardmore Telephone Company from its requested designated rural ETC area.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

---

In the Matter of

CC Docket No. 96-45

Corr Wireless Communications, LLC

Petition for Designation as an  
Eligible Telecommunications Carrier

---

**REPLY COMMENTS OF CORR WIRELESS COMMUNICATIONS, LLC**

Corr Wireless Communications, LLC (“Corr Wireless” or “Company”), pursuant to the Federal Communications Commission’s (“FCC’s” or “Commission’s”) *Public Notice*<sup>1</sup> in the above-referenced proceeding and in response to comments filed by a coalition of Alabama rural local exchange carriers<sup>2</sup> (the “Rural LECs”), files these reply comments in support of its Petition for Designation as an Eligible Telecommunications Carrier that was filed at the Commission on May 13, 2003 (“Petition”), and supplemented on May 14, 2004 (“Supplement”).<sup>3</sup> In these comments, Corr Wireless responds to several misstatements of facts and FCC policy relating to consideration of the Company’s Petition.

The Rural LECs reference service areas outside of the scope of the Petition that is directly at issue. In so doing, the Rural LECs ask the Commission to ignore its recent precedent

---

<sup>1</sup> *Parties Are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, Public Notice, DA 04-999 (rel. Apr. 12, 2004).

<sup>2</sup> Comments of the Alabama Rural Local Exchange Carriers to the Supplement of Corr Wireless Communications, LLC, filed May 28, 2004 (“Rural LECs Comments”).

<sup>3</sup> Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier, CC Docket No. 96-45 (filed May 13, 2003) (“Corr Wireless Petition”), Supplement to Petition of Corr Wireless Communications, LLC Petition for Designation as an Eligible Telecommunications Carrier, CC Docket No. 96-45 (filed May 14, 2004) (“Supplement”).

in the *Virginia Cellular* case<sup>4</sup> and to consider the instant petition not based on its own merits, but simultaneously with other ETC petitions throughout the state of Alabama. Further, the Rural LECs seek additional delay of the instant proceeding based on the Joint Board's Recommended Decision.<sup>5</sup> Such a delay is for delay's sake alone, given that the standards articulated in *Virginia Cellular* are unlikely to be altered by the Recommended Decision.

The Rural LECs also misapply the Commission's public interest standards from *Virginia Cellular*. As demonstrated in the Petition and the Supplement, Corr Wireless meets the refined public interest standard established in *Virginia Cellular*. The Rural LECs' attempts to disprove the sufficiency of the Supplement relies on an incomplete review of the Company's commitments from the Supplement. With the filing of the Supplement, Corr Wireless demonstrated that it meets all of the FCC's requirements for ETC designation to serve rural Alabama customers and, thus, respectfully requests that the FCC expeditiously grant Corr Wireless ETC status in the rural areas requested.

**I. There Are No Outstanding ETC Designation Issues That Warrant Further Delay of the Instant Petition.**

The Rural LECs first attempt to reprise their initial comments on the underlying Petition, in which they argued that there are key issues regarding the policy considerations of ETC designations that had yet to be determined.<sup>6</sup> These arguments are outside of the scope of the filed Supplement. Because the Company has already responded to many of these arguments, it

---

<sup>4</sup> *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan. 22, 2004) ("*Virginia Cellular*").

<sup>5</sup> *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Recommended Decision, (rel. Feb. 27, 2004) ("Recommended Decision").

<sup>6</sup> Rural LECs Comments, at 2.

will not waste the Commission's time repeating them here but rather incorporates its prior response by reference.<sup>7</sup>

The Rural LECs' reprised argument relies on the recent Joint Board Recommended Decision as justification to delay further Commission action in this proceeding. Such reliance on the Recommended Decision is ill-placed. To the extent that the Recommended Decision addresses ETC designation issues, it clearly is limited to the creation of optional guidelines for state commissions, not issues related to the Commission's own ETC designation process. The Commission has long established ETC designation guidelines as recently clarified by the *Virginia Cellular* case. There is no reason to wait for the Commission to act on the Recommended Decision.

## **II. The Rural LECs Apply the Incorrect Standard for Determining the Overall Impact on the Universal Service Fund.**

In the Supplement, Corr Wireless demonstrated that its proposed ETC status would have an insignificant impact (approximately .0141% of the total high cost support available to all ETCs) on the Universal Service Fund ("USF"). Such a demonstration is required by, and is sufficient to meet, the standard established by *Virginia Cellular*.<sup>8</sup> The Rural LECs, however, have invented a new standard, in which the Commission should not analyze the instant Petition on the merits, but rather, evaluate the Petition in the context of all other Alabama ETC Petitions, past and present.<sup>9</sup> This standard is contrary to the one established in *Virginia Cellular*. *Virginia*

---

<sup>7</sup> See, e.g., Reply Comment of Corr Wireless Communications, LLC, CC Docket No. 96-45, at 2-5 (filed Aug. 11, 2003) (Concerns regarding the ETC designation process generally are outside the scope of this limited proceeding.).

<sup>8</sup> *Virginia Cellular*, at ¶ 31.

<sup>9</sup> The Rural LECs do not address whether subsequent ETC applications would be accepted under this new standard of review, thus implying that the proposed standard is to consider the Petition in light of all past present and potential future ETC applications.

*Cellular* requires the Commission to examine the total USF impact of the specific Petition in question on its own merits, not based on the random collection of all ETCs in the state.

The problems of the Rural LECs' proposed standard are obvious. First, in order to implement it, a filing window for ETC status would need to be established. Later entrants to the marketplace would be effectively shut out, as each successive petition (if any) would be measured against all previous petitions. Or, in the alternative, all existing petitions could be delayed pending further filings. Obviously either result is both anti-competitive and absurd. Each Petition must be considered on its own merits, not in conjunction with any number of other petitions from other areas in a particular state.

In arguing for its collective, statewide approach to analyzing ETC Petitions, the Rural LECs identify the following LECs with two potential competitors: Casteberry Telephone Company, Inc., Gulf Telephone Company, Hayneville Telephone Company, Inc. and Moundville Telephone Company, Inc. Further, they refer to Butler Telephone Company, Inc. Millry Telephone Company and the Mon-Cre Telephone Cooperative, Inc. as having three competitive ETCs in their territory. Such facts are irrelevant. First, as noted above, the review of a petition in the context of all other petitions is simply not an appropriate standard. Further, none of the LECs identified by the Rural LEC Comments<sup>10</sup> as having multiple competitors, serves the areas requested in the Corr Wireless Petition! Thus, despite the histrionics of the Rural LECs, there is not runaway competition or endless numbers of ETCs in the areas requested by Corr Wireless. The Commission should therefore reject the Rural LECs' proposed standard as inconsistent with *Virginia Cellular* and anti-competitive and grant the Petition.

---

<sup>10</sup> Rural LECs Comments, at 7.

### III. Corr Wireless Meets the Public Interest Standard of *Virginia Cellular*.

After arguing that *Virginia Cellular* left unfinished key issues of the new ETC designation framework and is not appropriately used in this proceeding,<sup>11</sup> the Rural LECs then attempt to rely on the same *Virginia Cellular* standard. As outlined in the Supplement, Corr Wireless can meet the more specific standards established by *Virginia Cellular* including, specifically, quality of service commitments and access to emergency services, notwithstanding the allegation of the Rural LECs. Corr Wireless addresses the Rural LEC allegations in turn.

First, the Rural LECs raise concerns that Corr Wireless has offered only proposed or tentative construction plans. Simply put, the actual construction of new facilities is dependant upon the receipt of High Cost funds for the construction of these sites, thus the construction plans are proposed. Further, the plans identify general construction zones in which additional tower siting or other construction could occur. The exact location of any tower is dependant upon factors relating to land and electricity availability, within the overall context of providing more comprehensive service coverage. The tentative nature of the construction plans is due to the realities of locating appropriate sites for construction. Nothing in *Virginia Cellular* requires that an applicant have begun construction or submitted plans for construction that it commits not to alter. Nor should the Commission adopt such a requirement. It is unrealistic to expect an applicant either to submit construction plans that are set in stone and will not change construction plans prior to applying for ETC status. Any such prior construction requirement would put the cart before the horse, given that the purpose of ETC funding is to ensure the build-out of quality, affordable services to rural America.<sup>12</sup>

---

<sup>11</sup> See Rural LECs Comments, at 4 (“it is not appropriate for the Commission to evaluate *all* pending ETC petitions under the public interest standard set forth in *Virginia Cellular*” (emphasis in original)).

<sup>12</sup> 47 U.S.C. § 254.

Next, the Rural LECs target the Company's service. In the Supplement, Corr Wireless explained that its service areas are larger than the incumbent LECs. The LECs, in turn, note that the Supplement does specifically mention the availability of calling plans with high volumes of minutes.<sup>13</sup> This rather odd response fails to acknowledge the benefits that the Company's increased service areas can have for consumers, and notes only that the Company failed to provide a statement about the size of the calling plans. A statement concerning the availability of high-volume calling plans is not required to meet the standard under *Virginia Cellular*. Rather, it is one factor in a fact intensive inquiry under which ETC Petitions should be considered.<sup>14</sup> But, for the record, Corr Wireless offers so-called "bucket plans" with up to 5000 minutes per month, a fact which is readily noted on the Company's website, and certainly known to the Rural LECs. Corr Wireless also offers two plans with unlimited minutes as long as the customer is on the Corr Wireless network. The "Home-Free" contract plan allows roaming and the "Prepaid" no-contract plan does not allow roaming.

The Rural LECs also express concern with Corr Wireless's commitment to providing emergency service. Such concern is unwarranted. In the Supplement, Corr Wireless states that it will provide access to all emergency services. To be clear, Corr Wireless does provide access to emergency service to all subscribers and will provide access to all new customers as well.

Finally, the Rural LECs express concern that Corr Wireless is not committed to serve sparsely populated areas. But, as the Supplement demonstrates, Corr Wireless has concrete plans to service sparsely populated areas. Exhibit B to the Supplement identifies 15 proposed sites, covering populations averaging less than 700 people per site, including three sites that will, at *most*, cover populations of 500 persons or less. With the construction plan, and USF support,

---

<sup>13</sup> Rural LECs Comments, at 9.

<sup>14</sup> *Virginia Cellular*, at ¶ 28; *see also*, Rural LECs Comments, at 10 (citing *Virginia Cellular*.)

Corr will be able to provide service to all requesting residential customers in its service area. There is no higher standard than the ability to service all requesting customers.

In addition to these attempts to discredit the Supplement's commitments to providing wireless service in some of the most rural parts of Alabama, the Rural LECs imply that Corr Wireless relies exclusively on the intrinsic values of competition to satisfy the *Virginia Cellular* public interest standard.<sup>15</sup> In *Virginia Cellular*, the Commission identified that competitive choice is a factor in analyzing the public interest of an ETC petition,<sup>16</sup> and it is a factor that weighs in favor of granting Corr Wireless's Petition. But Corr Wireless, as demonstrated in the Petition and the Supplement, also satisfies relevant factors of providing wireless competition in areas where there are no currently licensed ETCs, thus providing unique services to the areas in question. As noted above, the primary complaint alleged by the Rural LECs is that there are too many ETCs in all of Alabama; yet, the areas cited by the Rural LECs are in far-flung service areas in the state, including many, such as Gulf Telephone, that are on the opposite side of the state. Simply put, the Corr Wireless Petition is not affected by these generic complaints against competition generally.

#### **IV. The Corr Wireless Petition Does Encompass All Affected Alabama Wire Centers.**

The final comment from the Rural LECs is that Corr Wireless does, in fact, not service all wire centers.<sup>17</sup> Specifically, two wire centers of Peoples Telephone Company, Crossville and Grayson were excluded. Such exclusions were in error. Using data from the NANPA website, Corr Wireless identified all existing wire centers in Alabama. For reasons that cannot be explained, these two wire centers did not appear in a search made by Corr Wireless. Attached to

---

<sup>15</sup> Rural LECs Comments, at 10.

<sup>16</sup> *Virginia Cellular*, at ¶ 4.

<sup>17</sup> Rural LECs Comments, at 12.

these comments is a revised Exhibit A to the Supplement, reflecting the inclusion of these two wire centers. Corr Wireless regrets this inadvertent omission.

In addition, the Rural LECs identify two wire centers in Tennessee that cover parts of Alabama and are serviced by Ardmore Telephone Company (“Ardmore”).<sup>18</sup> Corr Wireless is a licensed wireless carrier in Alabama, and thus does not service the Tennessee portions of these wire centers. Consistent with its previous ETC filings, Corr Wireless does not seek to redefine any rural wireline study area. Accordingly, Corr Wireless hereby amends its Petition to exclude the service area of Ardmore from its requested designated rural ETC area. Furthermore, the wire centers of Ardmore have been removed from the revised wire center list in Exhibit A.<sup>19</sup>

---

<sup>18</sup> Rural LECs Comments, at n.49.

<sup>19</sup> Additionally, please note that none of the new sites included in Corr Wireless’ proposed construction plans are located in Ardmore’s service area.

## V. Conclusion

With the submission of the Supplement, together with its ETC Petition, Corr Wireless has demonstrated that it meets all the requirements for ETC designation under the framework established by the Commission in its *Virginia Cellular* Order. The Rural LECs attempt to delay Commission action in this proceeding by encouraging the Commission to wait for the Recommended Decision to be considered, even though the Recommended Decision would have no impact on how this Commission evaluates ETC petitions. Further, the Rural LECs have proposed a new and impossible standard, in which all ETC petitions in a state, no matter what size, must be considered together, regardless of the individual service areas that are at issue in a particular petition. Finally, the Rural LEC comments ignore commitments made by Corr Wireless in the Petition and the Supplement. Corr Wireless has clearly demonstrated compliance with the necessary public interest standards and the Petition should be granted without delay.

Respectfully submitted,

/s/ Tom Buchanan

Tom Buchanan, General Counsel  
Corr Wireless Communications, LLC  
600 3<sup>rd</sup> Avenue East  
Oreonta, Alabama 35121  
Phone: (205) 237-3000

Dated: June 4, 2004

## **EXHIBIT A**

### **Wire Center Information**

**Corr Wireless Communications, L.L.C. Requested ETC Service Areas**

State	Rural Telephone Company Name	Rate Center	Switch
AL	BLOUNTSVILLE TELEPHONE CO., INC.	BLOUNTSVL	BUVLALXADS0
AL	BLOUNTSVILLE TELEPHONE CO., INC.	NECTAR	NCTRALXARS0
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	ARAB	ARABALXADS1
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	ARAB	ARABALXADS1
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	ARAB	ARABALXADS1
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	MORGANCITY	MRCYALXADS0
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	MORGANCITY	MRCYALXADS0
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	UNIONGROVE	UNGVALXADS0
AL	BRINDLEE MOUNTAIN TELEPHONE CO.	UNIONGROVE	UNGVALXADS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	BRYANT	BRYNALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	FLAT ROCK	FLRKALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	FYFFE	FYFFALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	GERALDINE	GLDNALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	HENAGAR	HNGRALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	PISGAH	PSGHALXARS0
AL	FARMERS TELEPHONE COOPERATIVE, INC.	RAINSVILLE	RNVLALXADS1
AL	FARMERS TELEPHONE COOPERATIVE, INC.	RAINSVILLE	RNVLALXADS1
AL	HOPPER TELECOMMUNICATIONS COMPANY, INC.	SNEAD	SNEDALXADS0
AL	HOPPER TELECOMMUNICATIONS COMPANY, INC.	WALNUT GRV	WLGVALXADS0
AL	ICG TELECOM GROUP - AL	ONEONTA	BRHMALOUDS0
AL	ICG TELECOM GROUP - TN	VETO	NSVLTNMWDS0
AL	NEW HOPE TELEPHONE COOPERATIVE	GRANT	GRNTALXARS0
AL	NEW HOPE TELEPHONE COOPERATIVE	NEW HOPE	NWHPALXADS0
AL	NEW HOPE TELEPHONE COOPERATIVE	OWNSCRSRDS	OCRDALXARS0
AL	OTELCO TELEPHONE LLC	ONEONTA	ONNTALXADS1
AL	OTELCO TELEPHONE LLC	ONEONTA	ONNTALXADS1
AL	PEOPLES TELEPHONE CO., INC.	ARONEY	ARNYALXARS0
AL	PEOPLES TELEPHONE CO., INC.	CEDARBLUFF	CDRBALXADS0
AL	PEOPLES TELEPHONE CO., INC.	CENTRE	CNTRALXEDS1
AL	PEOPLES TELEPHONE CO., INC.	CENTRE	CNTRALXEDS1
AL	PEOPLES TELEPHONE CO., INC.	COLLINSVL	COVLALXARS0
AL	PEOPLES TELEPHONE CO., INC.	CROSSVILLE	CSVLALXADS0
AL	PEOPLES TELEPHONE CO., INC.	GAYLESVL	GLVLALXARS0
AL	PEOPLES TELEPHONE CO., INC.	GRAYSON	GYSNALXADS0
AL	PEOPLES TELEPHONE CO., INC.	LEESBURG	LSBGALXARS0
AL	PEOPLES TELEPHONE CO., INC.	RINEHART	RNHRALXARS0
AL	PEOPLES TELEPHONE CO., INC.	SAND ROCK	SNRCALXARS0
AL	PEOPLES TELEPHONE CO., INC.	WHORTON	WHTNALXARS0

## CERTIFICATE OF SERVICE

I, Tom Buchanan, hereby certify that on this 4<sup>th</sup> day of June, 2004, a true and correct copy of the foregoing *Reply Comments of Corr Wireless Communications, LLC* was served via First Class Mail, U.S. postage prepaid or E-Mail on the following parties:

Sheryl Todd (**3 Copies**)  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room 5-B540  
Washington, DC 20554  
(**First Class Mail**)

Leah S. Stephens  
Mark D. Wilkerson  
Wilkerson & Bryan, P.C.  
405 South Hull Street  
Montgomery, AL 36104  
Counsel for Alabama Rural Local Exchange  
Carriers  
(**First Class Mail**)

Thomas Buckley, Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
(**E-Mail**)

Michael Altschul  
Christopher R. Day  
Cellular Telecommunications & Internet  
Association  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, DC 20036  
(**First Class Mail**)

Qualex International (**1 Copy and 1 Diskette**)  
Portals II  
445 12<sup>th</sup> Street, SW  
Room CY-B402  
Washington, D.C. 20054  
(**First Class Mail**)

/s/ Tom Buchanan  
Tom Buchanan